

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION  
CASE NO. 22-cr-24066-KMM

GRACE, INC., et al.,

Miami, Florida

Plaintiffs,

March 29, 2023

vs.

9:31 a.m. to 3:19 p.m.

CITY OF MIAMI,

11th Floor - Atkins Building

Defendant.

(Pages 1 to 160)

EVIDENTIARY AND MOTION PRELIMINARY INJUNCTION HEARING  
BEFORE THE HONORABLE LAUREN FLEISCHER LOUIS,  
UNITED STATES MAGISTRATE JUDGE

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PLAINTIFFS' TRIAL  
EXHIBITS

**P123**

1:22-cv-24066-KMM

exhibitclerk.com

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I N D E XWITNESSESWITNESSES FOR THE PLAINTIFFS:Page

--

WITNESSES FOR THE DEFENDANT:Page**Miguel de Grandy**

Direct Examination by Mr. Levesque

48

Cross-Examination by Ms. McNamara

71

EXHIBITS IN EVIDENCEIDENTIFIEDADMITTED

Joint Exhibit No. 4

58

--

Joint Exhibit No. 10

59

--

Defendant's Exhibit No. 1

51

--

MISCELLANEOUSPage

Proceedings.....

4

Opening Statement on behalf of the Plaintiffs.....

8

Opening Statement on behalf of the Defendant.....

43

Closing Argument on behalf of the Plaintiffs.....

89

Closing Argument on behalf of the Defendant.....

110

Rebuttal Argument on behalf of the Plaintiff.....

145

Court Reporter's Certificate.....

160

1 you need to, but we can be back in five, okay? All right.

2 Thank you.

3 THE COURTROOM DEPUTY: All rise.

4 (A recess was taken from 10:38 a.m. to 10:45 a.m.)

5 THE COURTROOM DEPUTY: All rise.

6 (Time 10:45 a.m.)

7 MIGUEL DE GRANDY,

8 a witness for Defendant, testified as follows:

9 THE WITNESS: I do.

10 THE COURTROOM DEPUTY: Thank you. Please be seated.

11 State your name. Can you spell your first and last name for  
12 the record?

13 THE WITNESS: My name is Miguel de Grandy.

14 M-I-G-U-E-L. Last name D-E, G-R-A-N-D-Y.

15 DIRECT EXAMINATION

16 BY MR. LEVESQUE:

17 Q. Mr. De Grandy, are you an attorney?

18 A. Yes, sir.

19 Q. Where are you admitted to practice?

20 A. I'm admitted in the State of Florida, I'm admitted in the  
21 Southern District Federal Court, I'm admitted in the United  
22 States Supreme Court.

23 Q. And can you describe for the Court your experience in  
24 redistricting?

25 A. I started as a member of the legislature. I was on the

1     redistricting committee. I ended up suing my own legislature  
2     for violation of Voting Rights Act; that was *de Grandy vs.*  
3     *Wetherell*, I believe. I was lead plaintiff and also cocounsel.

4             In 1998, I believe, I was appointed by Speaker Thrasher to  
5     be lead counsel on the case of *Fouts v. Mortham*, a  
6     redistricting case that had been filed against the legislature.  
7     I have done Palm Beach School Board. I have done the City of  
8     Miami three times now. I have consulted with various elected  
9     officials on redistricting issues. That's pretty much it.

10    Q. And at some time during this most recent cycle, were you  
11    engaged by the City to provide advice and counsel for the  
12    current redistricting cycle?

13    A. Yes, sir, I have.

14    Q. After you were engaged by the City, what did you do?

15    A. Well, we first -- we were awaiting the census data, the PLA  
16    data, which was delayed. We tried to spend our time officially  
17    in doing preliminary work to determine applicability of the  
18    Voting Rights Act. My coconsultant, Steve Cody, conducted that  
19    analysis, advised me that he did see patterns of politically  
20    cohesive voting, he did see patterns of block voting and  
21    polarized voting and that, therefore, in his opinion, the --  
22    the Voting Rights Act provisions would apply.

23    Q. Okay. In which districts did the Voting Rights Act apply  
24    to for the City of Miami?

25    A. District 5, District 1, District 3 and District 4.

1 Q. And how many districts are there in the City of Miami  
2 districts?

3 A. There's five districts.

4 Q. And did you also prepare a report for the City commission?

5 A. I prepared an initial, what I call a primer, which is meant  
6 to educate lay people on the basics of redistricting law and  
7 redistricting processes.

8 Q. Did that primer also inform the City of their need to  
9 redistrict?

10 A. Yes, sir. We had done the preliminary analysis and  
11 determined that the overall deviation of the then current map  
12 was above 42 percent. District 2 was highly overpopulated.  
13 District 3 was the lowest population. Put together, the  
14 percentage over and the percentage under is how you calculate  
15 overall deviation and, therefore, we were of the opinion that  
16 you could not use that plan for further elections.

17 Q. And how many districts were overpopulated in that manner?

18 A. I recall District 2 was the -- the huge one that was  
19 overpopulated.

20 Q. In fact, that was the only one that was overpopulated,  
21 correct?

22 A. That is correct.

23 Q. Now, at some point did you have a public meeting with the  
24 City commission?

25 A. We had several public meetings; I believe in November,

1 December, February and March.

2 Q. And at the November 18th public meeting, did the City give  
3 you directions to guide your work?

4 A. Yes, sir.

5 Q. And were those directions given in open meetings?

6 A. Yes. And they were, I think, later on redacted in the form  
7 of a resolution.

8 Q. And what were those directions?

9 A. The prime directive was comply with the constitution of the  
10 Voting Rights Act. They wanted to maintain the core existing  
11 districts to minimize voter confusion. They wanted to maintain  
12 mathematical -- excuse me, substantial equality as opposed to  
13 mathematical equality. They wanted me to concentrate further  
14 on voter cohesion, and they also wanted me to preserve  
15 traditional neighborhoods, if feasible.

16 Q. If you could take a quick look at Defendant's Exhibit 1,  
17 and let me know if that is the resolution that you just  
18 referenced.

19 (Defendant's Exhibit No. 1 was identified.)

20 THE WITNESS: Yes, sir.

21 BY MR. LEVESQUE:

22 Q. Now, I want to talk about some of these criteria that they  
23 provided to you.

24 First, did the ordering of the criteria matter to you?

25 A. Yes, it did.

1 Q. How did it matter to you?

2 A. Well, some of these things become mutually exclusive. If,  
3 for example, you are trying to preserve the court of existing  
4 districts, it may not be feasible to maintain communities of  
5 interest. And so because some of them can conflict with each  
6 other, I ask them to give me a hierarchy, if you will, of which  
7 ones they wanted to emphasize more and an order of preference.

8 Q. So they placed compliance with the United States  
9 Constitution and the Voting Rights Act at the top, correct?

10 A. That was always the prime directive.

11 Q. And the least important directive was maintaining  
12 community -- communities of interest, correct?

13 A. Where feasible, yes.

14 Q. How did you interpret maintaining the core of the districts  
15 to avoid voter confusion?

16 A. I mean, that -- that is a principle that is very popular  
17 among elected officials. It is also incumbent protection, but  
18 it's -- you know, you invest in, as a commissioner, in getting  
19 funds for a local road, a park, etc., you make those people  
20 happy. You expect those people are going to vote for you, so  
21 you want to maintain that constituency within your district.

22 Q. And in the course of the meetings and your map drawing  
23 activities, did the commissioners ever indicate that there were  
24 constituencies -- and I use that term loosely -- surrounding  
25 the geography, such as a park, that were important that they

1 wanted to keep in their district?

2 A. Yes, sir.

3 Q. Can you maybe provide an example or two to that end?

4 A. That would violate attorney/client privilege.

5 Q. Okay.

6 Now, one of the criteria also included factoring in voter  
7 cohesion?

8 A. That's correct.

9 Q. How did you interpret that criteria?

10 A. Well, voter cohesion, I mean, you've got to understand  
11 that -- let me give you an example. The Hispanic community.  
12 The Hispanic community is not monolithic. So, for example, you  
13 have people that would elect a Commissioner Reyes in District  
14 4, will not elect that same commissioner in District 2.

15 You have, for example, a commissioner that just got elected  
16 in District 2 which is Hispanic, Sabina Covo, who is liberal,  
17 who is a democrat; that person -- there is cohesion among the  
18 communities in District 2 to elect that type of politician,  
19 whereas District 3, 4 and 1 are very much more conservative,  
20 old guard, you know, a lot of Cuban Americans that vote a  
21 certain way and like a certain type of politician.

22 Q. And you used District 2, and you referred to it as a  
23 Hispanic district. How did the commissioners refer to that  
24 district?

25 A. They refer to it as an Anglo district, and I told them at

1 one point, I actually said, Fun fact, there is no Anglo  
2 district. And that was just proven in this last election where  
3 Ms. Sabina Covo was elected in District 2. She is Colombian  
4 American. Actually, the first three vote getters in District  
5 2, Sabina Covo, Reyes and Torres, all Hispanic sir names,  
6 totaled 66 percent of the vote that was cast. So I never  
7 believed it to be an Anglo district.

8 Q. And the criteria that the commission provided to you, was  
9 that the criteria that you utilized in drawing the lines?

10 A. To the best of my ability, yes.

11 Q. Now, after the commission gave you that criteria, what did  
12 you do?

13 A. We started -- I mean, the prime directive was obviously  
14 comply with the law and Voting Rights Act. Once you drill down  
15 into the principles that they asked us to employ, maintaining  
16 the core of existing districts, seriously hampers what else you  
17 could do with the plan. You have to basically play around the  
18 edges to comply with that requirement.

19 So we started looking at the areas adjacent to the  
20 different districts that could be moved. You know, we found  
21 between 2 and 5, there was a lot of movement, I think over  
22 10,000 folks that we were able to move. And I had to also  
23 figure out around the edges of 3 and 4 what, if anything, I  
24 could move from District 2. But I also had to ripple up to the  
25 other districts then to equalize their population.

1 Q. And in terms of maintaining the core of the existing  
2 districts, that would require you to, as much as you could, to  
3 spread out that additional population that you needed to shed  
4 from district 2; would that be fair?

5 A. That's fair.

6 Q. At some point did you come up with at least a draft map for  
7 the City's consideration?

8 A. We did.

9 Q. Was there a commission meeting on February 7th that you  
10 presented that map?

11 A. There was.

12 Q. In drawing that map, did you concern yourself with precinct  
13 boundaries?

14 A. No; precinct boundaries were irrelevant because -- well,  
15 let me take a step back. One of the preliminary things that we  
16 did was interact with the Department of Elections to  
17 understand, you know, their timing, when they needed a plan,  
18 etc., etc.

19 Now, what the elections department told us is, you know,  
20 because the county was going to be redistributed, the school  
21 board was going to be redistricted, the City of Miami, maybe  
22 other communities within Miami-Dade county, they were going to  
23 re-precinct the entire county. So to me, precincts were  
24 irrelevant. I concentrated on street boundaries rather than  
25 precincts.

1 Q. So when you were actually drawing the lines, you didn't  
2 look at precinct lines, you looked at street boundaries; did  
3 I --

4 A. We never even had a precinct map because it was irrelevant.

5 Q. Now, one of the things that has been brought up in this  
6 litigation is the percentage in District 5 of black voting age  
7 population.

8 Did you have a specific target that you were looking for in  
9 drawing?

10 A. No. I wanted to keep it above 50 percent, and I will tell  
11 you why. If you look at each redistricting cycle since 1997,  
12 the black community has reduced both in relative and absolute  
13 terms. I'm not drawing a plan for a snapshot in time. I'm not  
14 drawing a plan for the 2023 election. I'm drawing a plan for a  
15 decade. I have to focus, and I believe the case law says you  
16 have to focus on local conditions. That area is gentrified.  
17 And so you can see it statistically in each decade of  
18 redistricting how the black percentage has gone down  
19 significantly.

20 In my assessment, a 50.3 percent black district, which  
21 would have 52 and change percent voter -- black voters was a  
22 district that could perform the entire decade.

23 Q. And the 52 percent figure that you referenced, that's not  
24 actually citizen voting age population?

25 A. It's registered voters.

1 THE COURT: Wait, say that again. Sorry.

2 THE WITNESS: It's registered voters.

3 THE COURT: I know, but the first part of the question  
4 was, the distinction you just drew, I missed it, I'm sorry.

5 THE WITNESS: And your question?

6 MR. JOHNSON: Citizen voting age population.

7 MR. LEVESQUE: Yeah, the distinction between citizen  
8 voting age population and black registered voters. So black  
9 citizen voting age population and registered voters.

10 THE WITNESS: I believe citizen voting age population  
11 was 58, somewhere in that percentage. Voting -- registered  
12 voter population was 52 and change.

13 BY MR. LEVESQUE:

14 Q. And why would there be a delta in those two numbers?

15 A. Well, you have Haitian community, you have individuals that  
16 simply don't register to vote. But you have -- you know,  
17 within that area, you have a black immigrant community that is  
18 a noncitizen community.

19 Q. Is there also a federal prison in that community where they  
20 would be citizens but would not be eligible to register to  
21 vote?

22 A. I believe so, yes.

23 THE COURT: What federal prison, FDAC?

24 MR. WARREN: Yes, Your Honor.

25 THE COURT: FDC is part of District 5?

1 MR. WARREN: Yes, Your Honor.

2 THE COURT: It's across the street.

3 MR. WARREN: Yes, Your Honor.

4 THE COURT: Thank you. Go ahead.

5 BY MR. LEVESQUE:

6 Q. And in that February 7th meeting, did the commission give  
7 you directions on your draft map?

8 A. I'm trying to recall if they refined the direction. There  
9 was discussion about whether to move south of U.S. 1. I don't  
10 know if it was that meeting, but there was that discussion.

11 Q. Now, in that meeting, in your draft map, had you already  
12 moved south of U.S. 1?

13 A. I don't recall that map. Can I see that map?

14 Q. Absolutely. Probably that would be captured in your slide  
15 presentation that would be Joint Exhibit 4.

16 (Joint Exhibit No. 4 was marked for identification.)

17 THE WITNESS: Ah, yes, that would be the version where  
18 I had taken a sliver of District 2 into District 3, and I am  
19 looking at, just for the record -- it's Exhibit 4 and it says  
20 Page 25 of 40. There was a sliver of District 2 that I brought  
21 up to District 3 that was, you know, I thought more  
22 esthetically acceptable.

23 There were objections at that meeting that that  
24 included the area of Bay Heights, and that those objections,  
25 ah, strenuously came from some of the public, as well as

1 vehemently by the commissioner of the district and Bay Heights  
2 should not be separated from District 2. So there was pushback  
3 on that movement.

4 BY MR. LEVESQUE:

5 Q. And was there direction for you to also look at moving the  
6 Miami River Center back into District 5?

7 A. The MRC, yes.

8 Q. And was there also directions to restore some areas from  
9 D-1 to D-4?

10 A. That's correct.

11 Q. Now, after the February 7th hearing, what did you do?

12 A. I tried to make changes to the maps in compliance with the  
13 instructions that I had been given, and being sensitive to the  
14 community presentations that I had seen.

15 Q. If I could ask you to turn to Joint Exhibit 10,  
16 specifically Page 4.

17 (Joint Exhibit No. 10 was marked for identification.)

18 THE COURT: Did you say Exhibit 10?

19 MR. LEVESQUE: Yes, Your Honor, Joint Exhibit 10.

20 THE COURT: But not this? My Exhibit 10 is a one-page  
21 map.

22 MR. LEVESQUE: Do we have a copy of this?

23 THE COURT: Oh, did you mean ECF 24-10?

24 MR. LEVESQUE: Yes, ECF -- yes.

25 THE COURT: Oh, sorry. Thank you.

1 MR. LEVESQUE: I apologize, Your Honor.

2 THE COURT: I thought you were referring to your own  
3 exhibit. But I got it. Okay, slide 3, I have it.

4 MR. JOHNSON: I think that would be ECF 24-4, Your  
5 Honor. February 7th presentation? It's No. 10 in the Joint  
6 Exhibits, and No. 10 in the Joint Exhibit -- oh, excuse me, it  
7 is 24-10, sorry.

8 THE COURT: All right. I got it up.

9 THE WITNESS: I'm at Page 4.

10 BY MR. LEVESQUE:

11 Q. And does that reflect the -- the map that ultimately was  
12 adopted by the commission?

13 A. I believe so, yes.

14 Q. And I know it is going to be hard to see and -- if I could  
15 just ask you to -- there are several areas on there where you  
16 indicate there are movement in changes.

17 In your words, can you just walk us through each of those  
18 changes, describing it for the record and then talking about  
19 why you moved that and how that complied with the directions  
20 from the commission?

21 A. Okay.

22 THE COURT: Can I make sure, please, I am on the right  
23 slide? I'm at ECF 24-10, Page 4 of 15 and the title is, The  
24 base plan showing areas of movement, correct?

25 MR. LEVESQUE: That's correct.

1 THE COURT: And this is your testimony that this is  
2 the final plan as you presented it?

3 THE WITNESS: I believe so, yes.

4 THE COURT: Okay.

5 THE WITNESS: Okay. You're ready?

6 BY MR. LEVESQUE:

7 Q. Yes, sir.

8 A. I will start from the south to the north. The -- if you  
9 look at the first highlighted in red, there were actually two  
10 pieces to that. The piece that is north to U.S. 1, to me, was  
11 a natural movement in terms of shedding population from  
12 District 2; it would set, you know, a more stable boundary, if  
13 you will. Ultimately, there was a triangle that was added to  
14 the south of U.S. 1; again, that was purely to equalize  
15 population.

16 I had actually done a bigger movement south of U.S. 1 that  
17 was objected to by the folks in the Groves, and so I actually  
18 narrowed that piece, I believe, from --

19 THE COURT: Mr. De Grandy, I am going to tell you that  
20 you are losing me. So if you are going to describe your  
21 reasons for moving pieces, I need you to stay on one at a time,  
22 because -- I know that they are all very familiar to you, but I  
23 was with you on one piece and then I think you are describing  
24 another and I am lost.

25 THE WITNESS: Let me see if I can find slides, Your

1 Honor, that better express.

2 THE COURT: So I will tell you where you lost me. You  
3 said this western most piece from the District 2 was a natural  
4 piece to move.

5 THE WITNESS: Yes.

6 THE COURT: I didn't think I got an explanation as to  
7 why that was natural to you, but then I think you moved to  
8 another piece.

9 THE WITNESS: Right. And if you look, Your Honor, if  
10 I can draw Your Honor's attention to Page 10 of that exhibit,  
11 the second piece that I was talking about is that little red  
12 triangle. Your Honor sees that?

13 THE COURT: Yes.

14 THE WITNESS: Okay. That little red triangle  
15 initially was a larger triangle. There was a lot of opposition  
16 regarding that, and what I did was reduce that, in other words,  
17 move the line further north to reduce that triangle to address  
18 the objections of the folks in the Grove to the effect that I  
19 was dividing the traditional Grove. So that's why that  
20 movement was reduced.

21 The area 13 that everybody talks about, previously in  
22 my testimony I had talked about the movement that I made in  
23 bringing in a portion of District 2 into District 3 that was  
24 objected to. If Your Honor looks at that red box, people call  
25 it an appendage, immediately north of that was the movement I

1 originally made. That was the movement that was objected to in  
2 terms of not taking Bay Heights out of District 2. Bay Heights  
3 is a walled-in community. The commissioner of the district  
4 felt strongly it should remain in District 2. And so actually,  
5 I deleted that movement and had it -- I went south, literally,  
6 and the north boundary of that red square is the wall of Bay  
7 Heights, and I went south instead of going north.

8 Again, that was to bring in more population to  
9 District 3 and shed it from District 2.

10 BY MR. LEVESQUE:

11 Q. And Mr. De Grandy, you referenced north in terms of the  
12 area that was of concern, Bay Heights. If we were being more  
13 precise, would that be northeast?

14 A. Yes, northeast. To the right of.

15 Going now, ah, moving north on District 2, I felt that the  
16 two movements that we did to bring population from 2 to 5 were  
17 natural movements. It's just simply moving east to capture  
18 additional population. I think I moved north of 10,000 people  
19 in that movement.

20 The river of movement, my -- my opinion was that it was  
21 naturally more adept to District 1 than District 5 because  
22 District 1 already had a huge part of the Miami River. The  
23 Miami River has a very strong business constituency; they have  
24 a river commission, they are very politically active, they want  
25 to maintain the commercial uses of the river. So I thought it

1 would be good to have a commission that represented the vast  
2 majority of the river, and to me, that was a natural movement  
3 to move that into District 1.

4 THE COURT: And you are describing area 6?

5 THE WITNESS: Area -- I actually can't see it without  
6 my glasses, Judge.

7 MR. LEVESQUE: Yes, Your Honor, I believe he is.

8 THE WITNESS: Yeah. And then the other two were just  
9 swapped to equalize population between -- north between 1 and  
10 5.

11 BY MR. LEVESQUE:

12 Q. And those would be areas 7 and 8?

13 A. I can't see the numbers in this map, but I will take your  
14 word for it. It is the two in the north between District 1 and  
15 District 5.

16 Q. And the movements -- let me back up a little bit there.  
17 The movement that --

18 A. Oh, I'm sorry. I forgot to describe one movement which was  
19 the one where I took population from District 4 into District  
20 3. Commissioner Carollo has taken a very, you know, strong  
21 position regarding the 8th Street corridor and wants to, you  
22 know, control as much of it as possible. To me, that was the  
23 natural movement to, again, rebalance the population. Once I  
24 moved folks from 2 to 4, I had to rebalance the population, and  
25 it made sense to move that block of voters into District 3.

1 THE COURT: That's areas 14 and 15?

2 THE WITNESS: That is correct.

3 BY MR. LEVESQUE:

4 Q. If we could just go down and go back through a couple of  
5 those.

6 A. Sure.

7 Q. Area 13, that's one of those southern movements from  
8 District 2 into District 3?

9 A. Area 13 is the one they call the appendage?

10 Q. Yes, sir.

11 A. Okay.

12 Q. Am I correct that Commissioner Carollo has a residence that  
13 is in the foot of that area 13, in the lower corner?

14 A. That is correct, sir. There was a lot of discussion about  
15 that actually in commission meetings.

16 Q. And going up to areas 10 and 11 where District 2 shed  
17 population to District 5, are there reasons why you picked  
18 those areas to move into District 2 -- I'm sorry, District 5  
19 versus other areas to move into District 5?

20 A. Well, in the last redistricting -- if you look at the most  
21 northeast part of District 5, that used to be District 2. In  
22 the last redistricting, there was a lot of controversy about  
23 actually taking that district through the bay. A lot of the  
24 constituents in that area said, Look, we are concerned with  
25 coastal issues, we're concerned with sea rises, we're concerned

1 with a lot of issues that aren't necessarily issues of concern  
2 in more inner city areas. We want to remain part of District  
3 2. I recall the commissioner of the district made me do a  
4 couple more hearings in that area to explain to them why I had  
5 to move them based on a need to equalize population, etc.

6 So, quite frankly, I didn't want to go through that drama  
7 again, so I thought that taking more of the extreme north of  
8 District 2 was infeasible. And again, there is more of a  
9 community of interest in the coastal area that I wanted to  
10 preserve, and so I moved from more the urban core from west to  
11 east.

12 Q. And specifically for areas 10, 11 and 12 that we were just  
13 talking about there, are there any -- can you describe the  
14 populations and whether they would be more closely associated  
15 with the populations in District 5 or District 2?

16 A. I believe they will be more cohesive with District 5.  
17 The -- as you move further east, you know, waterfront becomes  
18 more affluent area. Those folks, again, are concerned with  
19 what I call first world issues, climate change, sea rise,  
20 things of that nature, social justice equity.

21 People in the more inner core are concerned about potholes  
22 in the street, whether they can pay the rent, whether they are  
23 going to have a park in their neighborhood. So those issues  
24 from the municipal perspective, it seemed to me that made more  
25 sense to move those folks into District 5.

1 Q. And in the presentation of their case, the Plaintiffs drew  
2 some attention to the little gap that's in between area 10 and  
3 11 and area 12. Can you describe what that gap is?

4 A. I call it the Condo Canyon. It's high density,  
5 residential, more, you know, professional class affluent folks.  
6 And I felt that they would be better served in District 2.

7 Q. If you were to move that particular piece into District 5,  
8 what would that do to the ability of District 5 -- let me  
9 rephrase that. What would that do to District 5's ability to  
10 elect a representative of their choice?

11 A. I think they would still be able to do so.

12 Q. Would it dilute it?

13 A. It would dilute it, yes.

14 (Pause in proceedings.)

15 THE COURT: What condos are there on 8th and 9th  
16 Street, because there are condos also at 10th and 11th, aren't  
17 there? What building are you describing in what you are  
18 referring to there as the condo what?

19 THE WITNESS: Condo Canyon.

20 THE COURT: Condo Canyon, what are the -- what are the  
21 buildings that are there?

22 THE WITNESS: If you look an aerial, Judge, you'll see  
23 that basically that sliver has significance high-rise  
24 condominiums.

25 THE COURT: But don't they continue up into 10th

1 Street?

2 THE WITNESS: They do. I mean, I don't have the  
3 aerial, so I can't tell you for sure, but they very well may.

4 BY MR. LEVESQUE:

5 Q. And, Mr. De Grandy, why were you moving population from  
6 District 2 into District 5 at all?

7 A. Because I had to shed thousands of people out of District  
8 2.

9 Q. And was District 5 the most under-populated district on the  
10 map?

11 A. No, it was District 3.

12 Q. And after redistricting, where did it rank, if you recall?

13 A. I don't recall.

14 Q. Now, after this map was presented -- let me back up.

15 At the February 25th meeting, did you present a map that  
16 was substantially similar to this?

17 A. At the?

18 Q. February 25th meeting.

19 A. Yes.

20 Q. And did the commission adopt that February 25th map as the  
21 base plan in which they would work from?

22 A. That's correct. I -- you know, I encouraged them to do  
23 that because, you know, if you have five individuals giving you  
24 five thoughts, you don't have, you know, a base to work from;  
25 it is very hard to draw a map. So I asked them to, you know --

1 you know, coalesce on a base draft, if you will, and then I --  
2 my charge was to make changes from those base plans. And  
3 ultimately commissioners also created their own alternatives  
4 from the base plan.

5 Q. And at some point did the commission consider a variety of  
6 alternatives to that base plan?

7 A. They did.

8 Q. And were any of those alternatives ultimately adopted?

9 A. No. Well, there were slight, you know, tweaks, the MRC,  
10 the -- there was an area called the Wharf which was joining the  
11 river that the district commission in District 5 wanted to  
12 keep, it is an entertainment venue. So that was moved back  
13 into D-5, but there were no, you know, substantive changes made  
14 otherwise.

15 Q. So other than that one little move for District 5 related  
16 to the Wharf, there were no changes that would have been  
17 reflected in this map?

18 A. Not to my recollection, no.

19 Q. Now, was there a Reyes alternative plan that was  
20 considered?

21 A. There was.

22 Q. When you reviewed that plan, did you believe that plan was  
23 also constitutionally compliant?

24 A. Yes.

25 Q. There was a Russell alternative plan, was there not?

1 A. There were two. I think she had an initial one and then he  
2 refined it to bring down the overall deviation.

3 Q. And at looking at both of those plans -- either of those  
4 plans, were those plans constitutionally compliant in your --

5 A. I believe them to be.

6 Q. Were there any other plans that were presented?

7 A. There was the Reyes plan. There was.

8 Q. But at least in terms of all of those other alternatives,  
9 those all would have been constitutionally compliant, correct?

10 A. I believe them to be, yes.

11 Q. Did any of them get a majority support?

12 A. No.

13 Q. If they had, they would be in the map, correct?

14 A. That's correct.

15 Q. Now, as the lead consultant working on these maps, what  
16 were your goals?

17 A. My goal was to create a plan that was constitutional and in  
18 compliance with the Voting Rights Act.

19 Q. And your primary directives came from full commission,  
20 correct?

21 A. That's correct. And I had told them on several occasions,  
22 if you go through the transcripts, that -- and I believe in the  
23 initial primer that I wrote, that I can't take directions from  
24 any individual commissioner. I have to have, you know, a --  
25 the body directs me as to how I need to move the plan.

1 MR. LEVESQUE: If I could have one moment, Your Honor?

2 THE COURT: Okay.

3 (Pause in proceedings.)

4 MR. LEVESQUE: No further question, Your Honor.

5 THE COURT: All right.

6 (Pause in proceedings.)

7 THE COURT: Do you mind repeating your last name for  
8 me, please?

9 MS. MCNAMARA: Caroline McNamara on behalf of --

10 THE COURT: McNamara.

11 MS. MCNAMARA: McNamara, yes.

12 THE COURT: Okay. I wanted to make sure the court  
13 reporter had it as well.

14 MS. MCNAMARA: And I'm on behalf of the Plaintiffs.

15 THE COURT: Okay.

16 CROSS-EXAMINATION

17 BY MS. MCNAMARA:

18 Q. Now, Mr. de Grandy, you stated that you're the consultant  
19 and you're hired by the City, correct?

20 A. That's correct.

21 Q. And the City, the commissioners are the ones who made the  
22 policy decisions about what would go into the map?

23 A. They provided the policy directives, yes.

24 Q. And that's like those five numbered that we went through in  
25 Defendant's Exhibit 1?

1 A. That's correct.

2 Q. And did you have any input into how they chose those five?

3 A. I put them out there to them. I suggested others that they  
4 didn't include, but I put them all out there for them.

5 Q. You raised the possibility to them that they could, quote,  
6 start from scratch if they wanted to?

7 A. I did, yes.

8 Q. But they instead wanted to preserve the cores and that's  
9 why after the Voting Rights Act, that's the next priority on  
10 the list?

11 A. That's correct.

12 Q. And -- and you briefly testified here that that decision  
13 constrained the further decisions you would make?

14 A. That's correct.

15 Q. And you were required to follow those instructions?

16 A. Yes.

17 Q. And because, you know, we test -- you testified that  
18 because of the focus on maintaining the cores, that the final  
19 priority about the neighborhoods was not something you could  
20 substantially achieve?

21 A. No. And actually, that hadn't been achieved in the -- in  
22 the plan that I was revising. And there were multiple  
23 neighborhoods already that were divided.

24 Q. The district plan as the Benchmark from 2013 as it came to  
25 you already had, say, Flagami, and some of the other districts

1 split up?

2 A. That's correct, yes.

3 Q. And over the process of this provision, the result was, you  
4 know, the Grove and maybe a couple other neighborhoods that got  
5 divided, in addition to the ones that had already been divided  
6 that weren't really changed?

7 A. Yes, the Grove was -- well, was impacted. I wouldn't say  
8 it was divided. The majority of the Grove is in tact.

9 Q. And there was some discussion about the goal of  
10 compactness, and you agree that compactness was not a goal that  
11 was assigned to you?

12 A. Compactness would be a very difficult goal when you look at  
13 the borders of the city; it would be challenging to draw a  
14 compact plan.

15 Q. Are the borders of the city the only reason it is  
16 difficult to draw compact districts?

17 A. Other than the borders of the district, making it  
18 challenging it, are you talking about once I got the  
19 instructions?

20 Q. Um-hmm.

21 A. Yeah, once I got the instructions and maintained the core  
22 of the existing districts, you can't draw compact districts.

23 Q. Now, the -- there is the -- Exhibit 1 that we have that has  
24 the five listed ordered priorities. Once you presented the  
25 plan and then there were some tweaks in the late February into

1 March area, the commission added the point about increasing the  
2 black voter -- voting age population in District 5 over 50  
3 percent?

4 A. That was never done by resolution.

5 Q. It wasn't done by --

6 A. There was discussion on that, yes.

7 Q. Did you feel -- you felt you were bound to do that for them  
8 because they asked for it?

9 A. I felt I needed to do it regardless of whether they asked  
10 me in order to maintain the ability of that community to elect  
11 candidates of choice throughout that entire decade.

12 Q. With the initial plan that you submitted on February 7th  
13 that had the black voting age population, I think 49.8 percent,  
14 that was just below the 50 percent line, and that was when  
15 Commissioners Reyes and King raised the concern that they  
16 wanted to get it over 50. So you -- you indicated affirmative  
17 in that?

18 A. Yes. To me, 49.8, 50.3, I mean, we are quibbling about a  
19 couple dozen people.

20 Q. Yeah.

21 You don't think it makes -- you don't think it's a  
22 significant difference between 49.8 and 50.3?

23 A. No. I mean, from an electoral perspective, listen, I'll  
24 tell you, my first election I lost by one vote, so to me, every  
25 vote is important. But, you know, statistically it is not that

1 significant.

2 Q. But Commissioners Reyes and King wanted the number to be  
3 over 50 percent?

4 A. They felt that was important, yes.

5 Q. Okay. Did the change of the threshold from 49.8 to, say,  
6 50.2 change the analysis of the Voting Rights Act compliance?

7 A. No.

8 Q. So overall would you say that the main -- you know, setting  
9 aside the population equality, that once -- you are required to  
10 do the population equality and balance the districts, and the  
11 main driver beyond that was maintaining the cores?

12 A. The main driver after what, I'm sorry?

13 Q. The driver of how you made the map was driven by  
14 maintaining the cores, that was the highest priority?

15 A. No. The highest priority was draft a constitutional plan  
16 in compliance with the Voting Rights Act, and the next priority  
17 was maintaining the core districts.

18 Q. Now, you testified you did a racially polarizing voting  
19 analysis of the city?

20 A. Steve did.

21 Q. Did you make a determination that the three Gingles  
22 preconditions were met for the black community in the City of  
23 Miami?

24 A. Mr. Cody did.

25 Q. Did he made a determination that the three Gingles

1 preconditions were met for the Hispanic population of the City  
2 of Miami?

3 A. He did.

4 Q. Did he determine that the three --

5 THE COURT REPORTER: I'm sorry, can you --

6 THE COURT: You need to slow down.

7 THE COURT REPORTER: I need you to please repeat the  
8 question slower.

9 MS. MCNAMARA: Do you want me to --

10 THE COURT: For me, yeah. I think the court reporter  
11 needs it too. I couldn't keep up.

12 BY MS. MCNAMARA:

13 Q. Did you determine that the three Gingles preconditions were  
14 met for the black population within the City of Miami?

15 THE COURT: Pause there.

16 Stephanie, G-I-N-G-L-E-S.

17 Go ahead.

18 THE WITNESS: Mr. Cody did. C-O-D-Y.

19 BY MS. MCNAMARA:

20 Q. Did you determine that the three Gingles preconditions were  
21 made for the Hispanic population for the City of Miami?

22 A. Mr. Cody did.

23 Q. Did you determine that the three Gingles preconditions were  
24 met for the non-Hispanic white population for the City of  
25 Miami?

1 A. There are not Gingles preconditions for white populations.

2 It's not considered a protected class in the VRA.

3 Q. During the February 25th hearing, Commissioner Reyes asked  
4 you if the probability of District 2 electing a white,  
5 non-white -- or a non-Hispanic white candidate was still high,  
6 and you said it was a high probability?

7 A. And it still is.

8 Q. It's a competitive district, but there is a good chance  
9 that a white candidate would win, even notwithstanding what has  
10 happened in the -- the special election last month.

11 A. There is a good chance that a non-Hispanic white can win,  
12 and there is a good chance that a Hispanic can win.

13 (Pause in proceedings.)

14 BY MS. MCNAMARA:

15 Q. Now, you testified about the concerns over gentrification  
16 and the impact over the course of the next decade on the  
17 population in District 5?

18 A. Yes.

19 Q. Did you perform any specific studies to assess the degree  
20 of gentrification that's expected over the next decade?

21 A. No. We -- again, you have to look at local conditions. I  
22 think one of the reasons that the City continued to retain me  
23 throughout the cycles is because I grew up in this community.  
24 I know this community very well. I can drive through and see  
25 the condo buildings going up. The permitting activity is not

1 ceasing.

2 You know, my law firm, what I do normally other than, you  
3 know, everyday redistricting is land use and governmental  
4 procurement. So I am very aware of what is being permitted in  
5 those areas, and I can see it -- you know, I can see those high  
6 rises coming up and they will continue to come up and that area  
7 will continue to gentrify.

8 Q. This is based on your experience in the past and what you  
9 predict will happen in the future?

10 A. And having seen the demographic trends in the last three  
11 decades, whereas the black population continues to decrease in  
12 that area.

13 Q. Did you create any models that would predict the extent to  
14 which it would decrease over the next ten years?

15 A. No.

16 Q. Did you present anything to the commission to quantify  
17 that, saying this is how much more we need to protect the black  
18 community in District 5 beyond what it already is?

19 A. No. I figured if those patterns continue, the 52.  
20 something percent of registered black voters would be in the  
21 40s by the end of the decade.

22 Q. Now, we --

23 THE COURT: Pause there for a second.

24 Did you communicate that to the commissioners, or is  
25 that just something you've estimated?

1 THE WITNESS: I -- I communicated in terms of concerns  
2 to keep the population above the 50 percent threshold, because  
3 that would keep my voter population in the 50 to 52 percent  
4 range.

5 THE COURT: It's specifically your opinion that by the  
6 end of the decade, the black population, voting black  
7 population would be in the upper 40s, you said?

8 THE WITNESS: Did I communicate that explicitly as I  
9 did now, no.

10 THE COURT: Okay.

11 BY MS. MCNAMARA:

12 Q. Okay. Now we talked a little bit about the federal  
13 detention center and this sliver where this courthouse is  
14 located that's --

15 THE WITNESS: I'm sorry, let me qualify that, Your  
16 Honor. I did not in public meetings.

17 THE COURT: Okay.

18 THE WITNESS: I did have multiple discussions with  
19 commissioners one-on-one.

20 THE COURT: Okay. Do you want to flesh that out for  
21 me?

22 THE WITNESS: Without getting into attorney/client  
23 privilege, but I gave them my thoughts.

24 THE COURT: I already know the sword and shield, so  
25 you choose.

1 THE WITNESS: I gave them my thoughts, Your Honor.

2 Can't go further than that.

3 BY MS. MCNAMARA:

4 Q. Coming back to the sliver that we are in currently that is  
5 bound between Northeast and 2nd Avenue in Miami, right here  
6 that this courthouse is in, that also includes the Federal  
7 Detention Center, that's one of the districts that you talked  
8 about on direct that moved from District 2 into District 5?

9 A. That's correct.

10 Q. When you were moving that block, did you assess the -- did  
11 you assess how much of that population is incarcerated in the  
12 Federal Detention Center?

13 A. Did I explicitly count them, no. No.

14 Q. You -- when you say -- are the people who reside within the  
15 Federal Detention Center within the population that was added  
16 to D-5 in your analysis?

17 A. In other words, were those counted as people? They were  
18 counted by the census. They were counted as people, yes.

19 Q. Did you count them as to when you were measuring the  
20 performance of the district, whether those inmates would affect  
21 the performance of the voting in the district?

22 A. Did I do that insular analysis, no. I looked at citizen  
23 voting age population and then citizen registered voter  
24 population; there is a delta there. And I assume part of that  
25 delta is the Federal Detention Center. Part of that delta is,

1 you know, people of African descent, like Haitians, that are  
2 non-citizens.

3 Q. And this -- the move that you did, that was in response to  
4 the reclassify commission to make sure it was over a 50 percent  
5 eval?

6 A. Which move?

7 Q. The move -- this move of this sliver and -- plus the one a  
8 little bit north of here from District 2 to District 5, that  
9 happened after you had presented the 49.8 percent BVAP and then  
10 some of the commissioners said, We really want to get that over  
11 50, and you were looking for additional black population to get  
12 in to District 5 in order to get the BVAP over 50 percent?

13 A. What specific movements are you talking about?

14 Q. I am talking about the -- the movement of the sliver that  
15 we're standing in now that includes this courthouse and the  
16 Federal Detention Center.

17 THE COURT: Area 12?

18 THE WITNESS: Area 12. Okay. What about area 12?

19 BY MS. MCNAMARA:

20 Q. That -- you did that after the February 7th hearing, when  
21 you presented your original plan with the 49.8 percent BVAP for  
22 District 5, and then the commissioners asked you to increase it  
23 to 50?

24 A. I believe -- yeah, I believe that that was in the later  
25 phases, yes.

1 Q. Adding the sliver which included the prison population was  
2 in the service of increasing the black population within the  
3 district?

4 A. No. It was to equalize population and shed population from  
5 District 2.

6 Q. But it didn't -- you -- you didn't consider the impact on  
7 the black voting age population number when you made that?

8 A. I was always cognizant of what the percentages were.

9 Q. Okay.

10 THE COURT: Is that a yes?

11 THE WITNESS: Yes.

12 (Pause in proceedings.)

13 BY MS. MCNAMARA:

14 Q. Just one more question. Going back to the discussion of --  
15 or discussions that you had with individual commissioners, and  
16 the Court asked the question of, if you discussed the  
17 gentrification models with individual commissioners.

18 Did you, in those individual discussions, discuss the --  
19 you know, statistics about potential gentrification models with  
20 those individual commissioners in those meetings?

21 A. I can't go into those details without violating  
22 attorney/client. I can just tell you that I gave them my  
23 thoughts.

24 MS. MCNAMARA: No more -- further questions.

25 THE COURT: All right.

1 MR. LEVESQUE: Your Honor, we don't have any redirect.

2 THE COURT: Okay. I have a question.

3 THE WITNESS: Okay.

4 THE COURT: You have heard that the -- the explanation  
5 and response by the Defendant, that the discussions by the  
6 commissioners that focused explicitly and exclusively on race  
7 were intended to be a proxy for political cohesiveness.

8 You were here in the courtroom for that discussion?

9 THE WITNESS: Yes.

10 THE COURT: Okay. I would like to know what your  
11 understanding was and what it was based on when, for example --  
12 I don't remember who said it, but someone pointed out in  
13 District 2 there could still be a commissioner, like Ken  
14 Russell, right, among other examples. But I would like to hear  
15 what your understanding and what it's based on when the  
16 commissioners addressed race explicitly and exclusively.

17 THE WITNESS: To me, the direction of voter confusion,  
18 and I touched on it a little bit before, is, again, you start  
19 with the fact, at least my experience, Your Honor, the Hispanic  
20 community is not monolithic. You have --

21 THE COURT: That's a good point, and let me just ask  
22 you to pause there, there isn't any distinction that I have  
23 seen in the transcripts that I have reviewed, and I have  
24 reviewed them all, so if you can point me to anything or you  
25 can recall from your presence there if there was something

1 different. But the only discussions that I have been pointed  
2 to that address Hispanic voters do treat them as a monolithic  
3 voting group. So if even you could flesh that out, that would  
4 be helpful.

5 THE WITNESS: That's -- that's why I believe they were  
6 trying to emphasize voter cohesion, because, again, if you look  
7 at the type of voters in a District 4 or a District 3, they are  
8 older, more conservative voters, very anti-communist because of  
9 their life experience, etc. You have the people in District 2  
10 that just elected a Hispanic commissioner, are different, are  
11 younger generation, more assimilated into the American  
12 experience, more liberal. Whereas District 3, District 4, more  
13 conservative.

14 So that's how I interpreted voter cohesion. It is not  
15 only just look at, hey, how many Hispanics can I dump into a  
16 place? What kind of voters are they? What -- what interests  
17 them? What are their issues?

18 THE COURT: Can you direct me to any part of any  
19 transcript that's consistent with that understanding that there  
20 was a description of political or partisanship cohesiveness?  
21 Do you remember any of the dates on which that discussion --

22 THE WITNESS: I can't -- I remember when one of the  
23 commissioners asked to focus on that, and I -- I think my  
24 response to them was pretty much the understanding that I have  
25 conveyed to Your Honor. But other than that, I -- I don't have

1 any specific transcript references that I can point to.

2 THE COURT: Can you remember which commissioner you  
3 think that that conversation occurred with?

4 THE WITNESS: If I had to guess, I would say Carollo.

5 THE COURT: Okay. And the generalized voting patterns  
6 that you are describing, can -- is there anywhere in the record  
7 of proceedings that support your conclusions that you relied on  
8 or shared with commissioners?

9 THE WITNESS: To support my conclusions? Other than  
10 the fact that, you know, a liberal Hispanic was elected to  
11 District 2.

12 THE COURT: But who were the other candidates?

13 THE WITNESS: There was Martin Zilber, who was the  
14 preferred candidate of the commissioners; they actually  
15 endorsed him. He came in fourth. Again, I can't point you to  
16 anything in the transcript. I could tell you what I understood  
17 and how I acted based on what I understood.

18 THE COURT: Okay. If anyone has follow-up questions  
19 to mine.

20 MR. WARREN: Not from us, Your Honor.

21 MR. LEVESQUE: Not from us, Your Honor.

22 THE COURT: Okay. Thank you for coming forward.

23 THE WITNESS: Thank you, ma'am.

24 THE COURT: Let me ask just a procedural and planning  
25 question. There is no further evidence coming forth from the

March 29, 2023

160

Grace, Inc., et. al v. City of Miami, 22-cr-24066-KMM

1 (The proceedings adjourned at 3:19 p.m.)

2

3

4 C E R T I F I C A T E

5 I hereby certify that the foregoing is an

6 accurate transcription of the proceedings in the

7 above-entitled matter.

8

9

10 06/13/2023

DATE



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